REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-17 and 20-21 are pending in the application. Claims 18-19 have been cancelled without prejudice or disclaimer. The other original claims have been revised to improve claim language. New claims 20-21 have been added to provide Applicants with the scope of protection to which they are believed entitled. The amended/new claims find solid support in the original specification and drawings. The specification and Abstract have been placed in compliance with commonly accepted US patent practice. No new matter has been introduced through the foregoing amendments.

The *35 U.S.C. 102(e)* rejection of claims 1, 4, 7-12 and 14 as being anticipated by *Yamaguchi* (JP 2004-131008) is respectfully traversed for the following reasons.

A. *Yamaguchi* is not prior art to the invention of claims 1-14.

First of all, *Yamaguchi* does not have a *35 U.S.C. 102(e)* date because the reference is not a US patent or a US patent application publication or a PCT application published in English and designating the US.[1]

Secondly, *Yamaguchi* has a *35 U.S.C. 102(a)* date as of its publication date of April 30, 2004 which was after the first and earliest priority date of the instant application, i.e., February 17,

[1] 35 U.S.C. 102. Conditions for patentability; novelty and loss of right to patent. A person shall be entitled to a patent unless — (e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; (emphasis added).

2004, but before the second and later priority date of the instant application, i.e., November 16, 2004. Thus, JP 2004-131008 is not applicable against claims that are supported by the earlier priority application No. JP 2004-039134. The reference might be applicable, at best and if at all, against claims that are supported by the later priority application No. JP 2004-331384.

Applicants respectfully submit that at least claims 1-14 of the instant application are entitled to the earliest claimed priority date of February 17, 2004 of the earlier priority application No. JP 2004-039134, because the earlier priority application No. JP 2004-039134 supports claims 1-14 in the manner required by *35 U.S.C. 112, first paragraph.*[2] It is sufficient to note that the drawings of the earlier priority application No. JP 2004-039134 are similar to FIGs. 1-21 of the instant application. Since FIGs. 1-21 of the instant application clearly support claims 1-14 in the manner required by *35 U.S.C. 112, first paragraph*, the similar drawings of the earlier priority application No. JP 2004-039134 should likewise support claims 1-14.

Thus, claims 1-14 of the instant application are supported under *35 U.S.C. 112, first paragraph* by the earlier priority application No. JP 2004-039134 and are entitled to the earliest priority date of February 17, 2004. Then, *Yamaguchi* with its later *102(a)* date of April 30, 2004 is not prior art to claims 1-14.[3]

Notwithstanding the above and solely for the purpose of expediting prosecution, Applicants have made clarifying Amendments which are not necessitated by the Examiner's rejections.

B. Specifically, amended independent claim 1 now recites, among other things, that the door body is arranged to advance and retreat while both end portions of the door body in the advance/retreat direction respectively project from the openings of the door pocket.

[2] Under 35 U.S.C. 119 (a) or (e), the claims in a U.S. application are entitled to the benefit of a foreign priority date or the filing date of a provisional application if the corresponding foreign application or provisional application supports the claims in the manner required by 35 U.S.C. 112, first paragraph. *In re Ziegler*, 992 F.2d 1197, 1200, 26 USPQ2d 1600, 1603 (Fed. Cir. 1993); *Kawai v. Metlesics*, 480 F.2d 880, 178 USPQ 158 (CCPA 1973); *In re Gosteli*, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

To the contrary, in *Yamaguchi*, only one end, in the advance/retreat direction, of the door body projects from the door pocket, whereas the other end, in the advance/retreat direction, of the door body remains within the door pocket. *See*, for example, *Yamaguchi* at FIGs. 2, 3 and element 20 in FIG. 5.

The deficiency of *Yamaguchi* is not deemed curable by the teaching reference of *Kawabata*. Particularly, *Kawabata* discloses a similar arrangement in which none of the door bodies (Lb, Rb, for example) are disclosed or suggested to have both end portions projecting from the respective openings of the respective door pocket.

Thus, *Yamaguchi* alone or a combination of *Yamaguchi* and *Kawabata*, if proper, would also fail to include the claim feature.

C. The applied references also fail to teach or suggest a control unit for adjusting an amount of advancing and retreating of the door body such that the open position of the door body corresponds to the boarding-alighting port of the car.

In both *Kawabata* and *Yamaguchi*, the door body merely stops at the fully opened position in which the door body maximally projects from the door pocket, and at the fully closed position in which the door body is retracted within the door pocket. *See*, e.g., Abstract of *Kawabata*. Thus, the applied references singly or in combination do not provide any adjustment to the amount of advancing and retreating of the door body so that the movable fence can open at various positions other than the fully closed and fully opened positions.

Thus, *Yamaguchi* alone or a combination of *Yamaguchi* and *Kawabata*, if proper, would also fail to include the claim feature.

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[3] The reference might be applicable, if at all, only against claims 15-19.

For any of the reasons detailed above in sections A-C, Applicants respectfully submit that independent claim 1 is patentable over the applied art of record. Independent claim 14 includes similar features and should also be considered patentable over the applied art of record.

The dependent claims, including any new claim(s), are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

Withdrawal of the rejection is now believed appropriate and therefore respectfully requested.

The *35 U.S.C. 103(a)* rejections of claims 2-3, 5-6 and 13 as being obvious primarily over *Yamaguchi* are respectfully traversed for at least the reasons advanced above with respect to independent claim 1.

Further, the Office's "well known" allegation with respect to claims 5-6 is respectfully traversed as being evidentially unsupported. The Office is kindly requested to either cite references that support the allegation that the claim features were known in the art *prior to the present invention*, or to withdraw the allegation.[4]

Moreover, the Office's "obvious design choice" rationale with respect to claim 13 is respectfully traversed, because there is no evidence that the "benefit" of the zigzag arrangement as alleged in the Office Action at page 5 was actually recognized in the art *prior to the present invention*. In other words, there is no evidence of record that a person of ordinary skill in the art, at the time the invention was made, would be aware of the alleged benefit to have modified the reference to include the claimed zigzag arrangement.

[4] *See MPEP*, section 2144.03 (As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute") (emphasis added).

Withdrawal of the rejections is now believed appropriate and therefore respectfully requested.

The *35 U.S.C. 103(a)* rejection of claims 15-19 as being obvious over *Yamaguchi in view of Kawabata* is noted. Although Applicants do not necessarily agree with the Office's position, amendments have nevertheless been made solely for the purpose of expediting prosecution.

Specifically, independent claim 15 now recites:

> 15. An opening/closing method for a movable fence, which includes
> a door pocket provided on a platform so as to face to a car arriving at the platform, said door pocket having openings at opposite ends thereof;
> a door body arranged for advancing and retreating through the openings of the door pocket; and
> a control unit incorporating a data pattern for each car based on door position information in the car,
> wherein
> the openings for advancing and retreating the door body are formed at said ends of the door pocket in an advance/retreat direction of the door body;
> a length in the advance/retreat direction of the door body is longer than a length of the door pocket between said ends; and
> the door body is arranged for advancing and retreating while both end portions of the door body in the advance/retreat direction respectively project from the openings of the door pocket;
> said method comprising the steps of:
> wirelessly sending a pattern of door position information of the car to the control unit on the platform;
> identifying door positions of the car arriving at the platform by selecting the data pattern corresponding to the received pattern of door position information;
> determining a slide amount of the door body in connection with the identified door positions; and
> opening the door body according to the determined slide amount.

In other words, claim 15 recites that the door body is arranged for advancing and retreating while both end portions of the door body ... respectively project from the openings of the door pocket.

To the contrary, in *Yamaguchi*, only one end, in the advance/retreat direction, of the door body projects from the door pocket, whereas the other end, in the advance/retreat direction, of the door body remains within the door pocket. *See*, for example, *Yamaguchi* at FIGs. 2, 3 and element 20 in FIG. 5.

Kawabata discloses a similar arrangement in which none of the door bodies (Lb, Rb, for example) are disclosed of suggested to have both end portions projecting from the respective openings of the respective door pocket.

Thus, a combination of *Yamaguchi* and *Kawabata*, if proper, would also fail to include the claim feature. Independent claim 15 is therefore patentable over the applied art of record.

Dependent claims 16-17 are considered patentable at least for the reason(s) advanced with respect to independent claim 15.

New claims 20-21 depend on claims 14 and 15, respectively, and are believed patentable over the applied art of record at least for the reason(s) advanced with respect to independent claims 14 and 15.

Each of the rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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